

REMARKS

Claims 28-39 are pending and examined in this application. Through this paper, claim 28 is amended by substituting “a control amplification reaction in a second nucleic acid sample different from said first nucleic acid sample” with “a subsequent control amplification reaction in a second nucleic acid sample.” Support for the amendment can be found throughout the specification at, for example, pages 3, lines 4-8 and lines 23-25; and page 5, line 21 to page 6, line 14. Applicant respectfully submits that no new matter is added through the claim amendment contained herein.

Claim Rejections

Claims 28-37 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention at the time the application was filed. Specifically, the Office action states that the claim limitation that the second nucleic acid sample for conducting the control amplification reaction is different from the first nucleic acid sample is not clearly supported by the specification.

Claims 28-39 are also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office action asks for clarification as to the meaning regarding the second nucleic acid sample being different from the first nucleic acid sample.

Without acquiescing to the Office action’s characterization of the specification but in the interest of advancing the prosecution, Applicant hereby amends claim 28 by substituting the language in question, “a control amplification reaction in a second nucleic acid sample different from said first nucleic acid sample” with “a *subsequent* control amplification reaction in a second nucleic acid sample.”

Support for the amendment can be found throughout the specification. For example, the specification describes:

The invention provides methods for determining whether contamination from previous amplification product exists in products of a polymerase chain reaction (PCR). Specifically, the invention relates to

methods for detecting the presence of PCR products (amplicons) that would not be present *but for* contamination from previous amplification product in the PCR sample. (Page 3, lines 4-8, italics original, underline added)

Because the only samples that contain the CDS sequence will be those generated by previous PCR events within the lab, the presence of amplified product after PCR with the CDS-specific primers indicates that that particular sample is contaminated, and the results should be discarded. (Page 6, lines 9-12, underline added)

In the amended claim 28, the recited “first nucleic acid sample” is where the “previous” amplification event referred to in the specification takes place. The claimed “subsequent” control reaction in a second nucleic acid sample can be interpreted as referring to, for example, the control PCR performed in the second aliquot of stool sample described at page 8, lines 6-9 of the specification.

Because the amended limitation in claim 28, the only pending independent claim, is clearly supported by the specification, and its meaning is definitive, Applicant respectfully submits that the claim amendment overcomes all the rejections under 35 U.S.C. § 112, under both the first and second paragraphs. Accordingly, Applicant requests the reconsideration and withdrawal of all the rejections.

Summary

Claims 28-39 remain pending in the Application. Claim 28 is amended by the present Amendment. Applicant respectfully submits that no new matter is introduced by the present Amendment.

Applicants respectfully request that the Examiner reconsider the application and claims in light of the foregoing Amendment and Response, and respectfully submit that the claims, as amended, are in condition for allowance. If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

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Reply to Office action of October 6, 2003

Because this Amendment is submitted before the expiration of the three-month shortened statutory period and no new claim is introduced through this paper, Applicant believes that no fee is required. However, the Commissioner is authorized to charge any additional fees necessitated by the filing of this paper to Attorney Deposit Account 20-0531.

Respectfully submitted,



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